

REMARKS

Applicant has carefully studied the Office Action of December 16, 2004, and offers the following remarks to accompany the above amendments.

Initially, Applicant amends the specification to fix a typographical error in paragraph 0019. Applicant requests that the objection to the specification be withdrawn in light thereof.

Applicant further amends the claims to delete the reference characters. No new matter is added, but the claims are made more readable. Claims 13-17 and 22 are amended to clarify antecedent basis issues. No new matter is added.

Claims 1-23 were rejected under 35 U.S.C. §102(b) as being anticipated by Klemba et al. (hereinafter "Klemba"). Applicant respectfully traverses. For the Patent Office to establish anticipation, the Patent Office must provide a reference which teaches each and every element of the claim. Furthermore, the elements of the reference must be arranged as claimed. MPEP § 2131. The Federal Circuit requires strict compliance with the anticipation standards. The Patent Office's interpretation of Klemba does not adhere to these standards.

The claims recite that the memory within the body contains first indicia that identifies the portable device to the host device as a first device type. The example in the specification is a mass storage device, such as a USB drive. The claims further recite that the memory contains configuration indicia that subsequently identifies the portable device as a second device type. The Patent Office opines that Klemba's NFC 12 is the body and notes that the NFC 12 has initial identification indicia disclosed at Klemba col. 10, lines 43-49, going on to state "without the policy the CU provides simple capabilities, such as card reading. . . ." However, this statement is juxtaposing two separate elements within Klemba and improperly opining that these two separate elements are the "body" recited in the claims. To comply with the claim language, the Patent Office, which has identified the NFC 12 to be the "body" recited in the claim, must show that the NFC 12 has first and second indicia thereon that cause the NFC 12 to be treated as two different device types. The Patent Office has not done so. Rather, the Patent Office states that the NFC 12 is the body, but that the CU acts as a card reader when the policy is not present and acts as a cryptographic unit when the policy is present. The CU is not the "body" recited in the claims as clearly indicated by the Patent Office's own analysis. To this extent, the elements of the reference are not arranged as claimed, and the Patent Office has not established obviousness. Nowhere in the reference is there a teaching that the NFC 12, which the Patent Office has

identified as the "body", appears as two different device types to the host computing device as recited in the claims. Since the reference does not teach or suggest a claim element, the independent claims are allowable.

Applicant requests reconsideration of the rejection in light of the amendments and remarks presented herein. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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Date: March 7, 2005
Attorney Docket: 4989-009

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